S/N 09/838,695   PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Michael Dove   Examiner: Steven Paul Sax

Serial No.:   09/838,695   Group Art Unit: 2174

Filed: April 19, 2001   Docket No.: BU1327/0033-064001

Title: APPARATUS AND METHOD FOR PERSISTENT DISPLAY INTERFACE

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

BRIEF ON APPEAL

(1)   Real Party in Interest

Broadcom Inc. is the real party in interest.

(2)   Related Appeals and Interferences

To the best of Appellant's knowledge, there are no related appeals or interference proceedings currently pending, which would directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

(3)   Status of Claims

Claims 1-43 are pending in the present application, with claims 1, 10, 20, 31, 37, 38, 41 and 42 being independent. Appellant appeals the rejections of claims 1-43, which were finally rejected in the Final Office Action of April 17, 2007, as described in detail below. Claim 44 was also rejected in the Final Office Action. However, this rejection is moot as claim 44 was canceled in Applicant's response to the May 16, 2006 Non-Final Office Action, mailed on October 16, 2006.

(4)   Status of Amendments

An amendment and response to the May 16, 2006 Non-Final Office Action was mailed on October 16, 2006, in which amendments to Claims 1-43 were proposed by Applicant in view of telephonic interviews held with the Examiner and Applicant's undersigned representative on

October 10, 2006 and October 12, 2006. In these interviews, it was Applicant's understanding that the amendments made in the October 16, 2006 response would render U.S. Patent 6,523,064 ("Akatsu") non-analogous art, as Akatsu does not relate to the "perceptible representation of program data windows," such as in a window based computer operating system. However, rejections of claims 1-43 based on Akatsu were set forth in the April 17, 2007 Final Office Action. Applicants filed an After Final Response under 37 C.F.R. § 1.116 on August 17, 2007, to present arguments in favor of the patentability of claims 1-43. An Advisory Action was issued on July 19, 2007 in response to the June 28, 2007 amendment and response. The Advisory Action maintained the rejections set forth in the Final Office Action.

A pre-appeal brief request for review was filed on September 17, 2007. A decision in response to the pre-appeal brief request for review maintaining the rejections was mailed on November 30, 2007, setting the due date for filing of this Appeal Brief at December 30, 2007. Applicant is filing a request for a one month extension of time herewith, thereby extending the due date for filing of this appeal brief from December 30, 2007 until January 30, 2007. Therefore, the filing of this Appeal Brief is timely.

(5) Summary of Claimed Subject Matter

The claimed subject matter relates to methods and apparatus for producing a perceptible representation of program data windows, such as windows displayed in a window-based operating system, such a Microsoft Windows®, Linux® and the like. One such apparatus may include an arbiter that is configured to select a program to be a dominant program from among a plurality of programs seeking a master persistence attribute to display a program data window according to a predetermined priority hierarchy. *See, e.g.,* Application, FIG. 1, page 9, line 30-page 11, line 1. In such an embodiment, the arbiter may also be configured to assign the master persistence attribute to the selected program, where the program data window of the selected program is displayed concurrently with program data windows of other programs of the plurality of programs while not being obscured by the program data windows of the other programs and while overlapping at least one program data window of the other programs. *See, e.g.,* Id.; FIG. 9, page 22, line 30 – page 23, line 8. Claim 1 is directed to such an apparatus.

Claim 10 is directed to a graphics display apparatus that comprises a gatekeeper. In the apparatus of claim 10, the gatekeeper is adapted to select given programs to be granted a key to request a persistence attribute. The persistence attribute of claim 10 operates in a similar fashion as the persistence attribute of claim 1. For example, upon a selected program's receipt of the persistence attribute, a program data window for the selected program is displayed concurrently with program data windows of other programs without being obscured and while overlapping at least one other program window. Claim 20 is directed to a graphic display apparatus that includes a gatekeeper adapted to select given programs seeking to be granted a master persistence attribute and an arbiter adapted to select a dominant program from the given programs, where a program data window of the dominant program of claim 20 behaves in substantially the same fashion as discussed above with respect to claims 1 and 10. Claim 31 is directed to a graphics system that includes an arbiter that operates in a substantially similar fashion as the arbiters of claims 1 and 20 to assign a persistence attribute to a program data window. Claim 37 is directed to method of assigning a persistence attribute that may be implemented using the apparatus of claims 1, 10, 20 and/or 31. Claim 38 is a Beauregard claim where the apparatus of claim 38 implements substantially the same method as claim 37. Claim 41 is directed to a method of assigning a master persistence display attribute that may be implemented using the apparatus of claims 1, 10, 20 and/or 31. Claim 42 is directed to a method of producing perceptible representations of program data windows that may be implemented using the apparatus of claims 1, 10, 20 and/or 31.

(6)   Grounds of Rejection to be Reviewed on Appeal

The grounds of rejection to be reviewed on appeal are those grounds of rejection set forth in the April 17, 2007 Final Office Action, and maintained in the August 27, 2007 Advisory Action. Specifically, claims 1-43 stand rejected under 35 USC § 103(a) as being unpatentable over Akatsu in view of U.S. Patent 7,039,872 to Raheman and Japanese Patent Abstract JP 07073181A to Sadamatsu.

Claims 1-43 stand or fall together for purposes of this appeal. Each of the independent claims include similar elements to the elements discussed herein and, therefore, are all patentable over the art of record for the reasons set forth below.

(7) Argument

In the Final Office Action of April 17, 2007, claims 1-44 were rejected under 35 USC §
103(a) as being unpatentable over Akatsu in view of Raheman and Sadamatsu. Specifically, the
Office Action stated that Akatsu discloses, an arbiter (column 6, lines 5-30), selecting a
dominant program (column 6, lines 15-50, column 8, lines 30-60, column 11, lines 25-60) and
assigning a master persistence attribute to the dominant program(column 14, lines 10-55, column
15, lines 25-60). *See,* April 17, 2007 Final Office Action, page 2, paragraph 4.

The above rejections were maintained in the August 27, 2007 Advisory Action and the
November 30, 2007 Pre-Appeal Brief Request for Review Panel Decision.

The initial burden of establishing a *prima facie* basis to deny patentability to a claimed
invention under any statutory provision always rests upon the Examiner. *In re Mayne,* 104 F.3d
1339, 41 USPQ2d 1451 (Fed .Cir. 1997); *In re Deuel,* 51 F.3d 1552, 34 USPQ2d 1210 (Fed. Cir.
1995); *In re Bell,* 991 F.2d 781, 26 USPQ2d 1529 (Fed. Cir. 1993); *In re Oetiker,* 977 F.2d 1443,
24 USPQ2d 1443 (Fed. Cir. 1992). In rejecting a claim under 35 U.S.C. § 103, the Examiner is
required to provide a factual basis to support the obviousness conclusion. *In re Warner,* 379
F.2d 1011, 154 USPQ 173 (CCPA 1967); *In re Lunsford,* 357 F.2d 385, 148 USPQ 721 (CCPA
1966); *In re Freed,* 425 F.2d 785, 165 USPQ 570 (CCPA 1970). Applicant respectfully submits
that these rejections are improper and without basis, as claims 1-44 are not obvious over the cited
art for the reasons set forth below. The Examiner has failed to establish a *prima facie* showing
of obviousness for at least the reasons set forth below. Accordingly, Applicant requests that the
rejections be withdrawn in view of the following remarks and that the application be moved to
allowance.

I. **Akatsu in view of Raheman and Sadamatsu fails to render independent claims 1, 10,
20, 31, 37, 38, 41 and 42 and dependent claims 2-9, 11-19, 21-30, 32-36, 39, 40 and 43
obvious because, at a minimum, Akatsu is non-analogous art.**

Claim 1 recites:

An apparatus for producing a perceptible representation of program data
windows, comprising:
an arbiter adapted to:

(a)   select a program to be a dominant program from among a plurality
of programs seeking a master persistence attribute to display a program data
window according to a predetermined priority hierarchy, and

(b)   assign the master persistence attribute to the selected program,
wherein the program data window of the selected program is displayed
concurrently with program data windows of other programs of the plurality of
programs while not being obscured by the program data windows of the other
programs and while overlapping at least one program data window of the other
programs.

Applicant notes that each of the other independent claims, 10, 20, 31, 37, 38, 41 and 42,
include similar limitations of those of claim 1 discussed below. Therefore, the following
remarks apply equally to each of the independent claims.

Claim 1 is directed to an apparatus for producing a perceptible representation (e.g.,
displaying) of program data windows, such as for various programs running on a computing
system running a windowed operating system. The apparatus of claim 1 includes an arbiter,
which may be implemented in, for example, a gatekeeper. The arbiter is adapted to select a
program to be a dominant program according to a predetermined priority hierarchy and assign a
master persistence attribute to the selected program. The apparatus of claim 1 displays the
program data window of the selected program concurrently with program data windows of other
programs. In the apparatus of claim 1, the program data window for the selected program is not
obscured by the other program data windows and overlaps at least one program data window of
the other programs.

An example embodiment of such an apparatus is described in the Summary of the present
application on page 3, line 23 through page 4, line 26, which was also set forth in Applicant's
August 17, 2007 response in the last paragraph on page 3, continuing onto page 4. The panel is
referred to the Summary of the Application as filed or the August 17, 2007 Response for this
portion of the description.

From the language of claim 1 in view of the above-referenced portion of the description,
and the description as a whole, claim 1 is clearly directed to producing perceptible
representations of program data windows for programs being executed on computing systems
running windowed operating systems.

In contrast, Akatsu is directed to a network gateway device that is used to select between multiple sources (network devices) on a network, such as home entertainment network. Such a gateway 504 is illustrated in FIG. 5 of Akatsu as being implemented in a home entertainment and home office system. For instance, the gateway 504 is used to select between various media feeds for display on a television monitor 508. *See* Akatsu, column 6, lines 32-61 and FIG. 5. The media feeds in FIG. 5 of Akatsu include a satellite 582 via a satellite receive 540, a broadcast tower 586 via an antenna 544, as well as feeds from local land lines 592, such as coaxial cable via a cable receiver 556, among other land line sources.

In view of the foregoing, Applicant respectfully submits that the subject matter of Akatsu is not analogous to the subject matter of claim 1. In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of the applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." *In re Oetiker*, 977 F.2d 1443 (Fed. Cir. 1992); see also *In re Clay*, 966 F.2d 656 (Fed. Cir. 1992) ("A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem."). Specifically, one of skill in the art, at the time the invention was made, would not refer to IEEE gateway devices for selection between media feeds (or other network devices) to implement an apparatus for displaying program data windows, such as recited in claim 1. The subject matter of Akatsu is not in the same field of endeavor as the subject matter of the claims, nor is reasonably pertinent to the problem with which the inventor was concerned. Therefore, on at least this basis, the rejection of claim 1 and its dependent claims 2-9 is improper and without basis, and should be withdrawn.

As noted above, independent claims 10, 20, 31, 37, 38, 41 and 42 include similar limitations to the limitations of claim 1 discussed above. Therefore, claims 10, 20, 31, 37, 38, 41 and 42 are not obvious over Akatsu in view of Raheman and Sadamatsu for at least the same or similar reasons as discussed above with respect to claim 1. Furthermore, claims 11-19 depend ultimately from claim 10; claims 21-30 depend ultimately from claim 20; claims 32-36 depend ultimately from claim 31; claims 39 and 40 depend ultimately from claim 38 and claim 43 depends from claim 42. Accordingly, claims 11-19, 21-30, 32-36, 39, 40 and 43 are also not

obvious over Akatsu in view of Raheman and Sadamatsu by virtue of claim dependency
Therefore, the rejections of claims 10-43 are also improper and without basis, and should be withdrawn.

II. Akatsu in view of Raheman and Sadamatsu also fails to render independent claims 1, 10, 20, 31, 37, 38, 41 and 42 and dependent claims 2-9, 11-19, 21-30, 32-36, 39, 40 and 43 obvious because the proposed combination teaches away from the subject matter of the claims.

Further to the above, for the sake of argument without concession, even if one of skill in the art, at the time the invention was made, were to consult Akatsu in view of Raheman and Sadamatsu, there is no likelihood of success to produce the apparatus of claim 1 (or the subject matter of the other independent claims). For purposes of this response, it is assumed, though not conceded, that the remarks in the April 17, 2007 Final Office Action made with respect to Raheman and Sadamatsu are correct.

The gateway device of Akatsu is implemented using an IEEE 1394 bus interface. *See* Akatsu, column 1, line 58 through column 6, line 29. As set forth in Akatsu, the physical layer 412 provides a arbitration service that ***ensures that only one node at a time is sending data***. Id., column 6, lines 8-10. The Office Action states that this arbitration service constitutes the arbiter/gatekeeper of the pending claims. Applicant respectfully disagrees with this assertion.

As discussed above, the gateway device 504 of Akatsu is used to select between media streams or network source nodes. The arbitration service of the gateway 504 is used to select a single media source (or network node) from a plurality of media sources (or network nodes). The arbitration service ***ensures that only one node at a time is sending data***. Accordingly, the gateway device 504 of Akatsu makes sure that, for instance only one device at a time is allowed to display data on the television 508. Therefore, content from a selected device (i.e., the satellite 582) is not displayed concurrently with content from other devices (i.e., the broadcast tower 586). Accordingly, ***Akatsu directly teaches away*** from concurrently displaying a program data window for a selected program with program data windows of other programs. It is improper to combine references where the references teach away from their combination. *In re Grasselli*, 713 F.2d 731, 218 USPQ 769 (Fed. Cir. 1983). A prior art reference must be considered in its

entirety including portions that would lead away from the claimed invention. *W.L. Gore &*
Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied,*
469 U.S. 851 (1984).

While Raheman and Sadamatsu may disclose displaying program data windows
concurrently and the use of a predetermined hierarchy, the subject matter of those applications is
technically incompatible with Akatsu because Akatsu does not relate at all to the display of
program data windows and discloses a gateway that is used to select between a plurality of media
streams (or network nodes) for singular display (or singular communication).

Based on the foregoing, the independent claims 1, 10, 20, 31, 37, 38, 41 and 42 and
dependent claims 2-9, 11-19, 21-30, 32-36, 39, 40 and 43 are not obvious over Akatsu in view of
Raheman and Sadamatsu on this further basis. Accordingly, Applicant respectfully submits that
the rejections are further improper and without basis, and should be withdrawn.

(8)   Conclusion

Appellant respectfully submits that all the pending claims, claims 1-43, in this application
are patentable and requests that the Board of Patent Appeals and Interferences direct the
Examiner to withdraw the rejections and move the application to allowance.

If necessary, please charge any additional fees or credit overpayment to Deposit Account
No. 50-3521, referencing attorney docket number 0033-064001.

Respectfully submitted,

Brake Hughes Bellermann LLP
Customer Number 57246
360-930-3533

Date   January 30, 2008   By   /Paul W. Churilla – Reg. No. 47,495/
                                      Paul W. Churilla
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Appendix of Claims

1.   An apparatus for producing a perceptible representation of program data windows, comprising:

an arbiter adapted to:

(c)   select a program to be a dominant program from among a plurality of programs seeking a master persistence attribute to display a program data window according to a predetermined priority hierarchy, and

(d)   assign the master persistence attribute to the selected program,

wherein the program data window of the selected program is displayed concurrently with program data windows of other programs of the plurality of programs while not being obscured by the program data windows of the other programs and while overlapping at least one program data window of the other programs.

2.   The apparatus of claim 1, further comprising:

an access control table, operationally coupled with the arbiter, adapted to contain indicia representative of the predetermined priority hierarchy.

3.   The apparatus of claim 2, further comprising:

a configuration application program, operationally coupled with the access control table, adapted to configure the arbiter with the predetermined priority hierarchy.

4.   The apparatus of claim 1, further comprising:

an I/O manager, operationally coupled with the arbiter, adapted to communicate display data for the perceptible representation between the plurality of programs and a display.

5.   The apparatus of claim 4, further comprising:

a graphics device driver, operationally coupled with the I/O manager and the display, adapted to provide the display data to the display.

6.   The apparatus of claim 1, further comprising:

a graphics device driver, operationally coupled with the arbiter, adapted to transmit the display data for the perceptible representation to a display.

7.   The apparatus of claim 2, wherein the indicia include one of a process ID (PID), a window ID (WID), a priority, revoked and repudiated credentials, an authentication token or key, a master persistence attribute authorization, descriptive text, a program status, a system status, an accessible display region, and an excluded displayed region.

8.   The apparatus claim 1, wherein the arbiter further comprises at least one of a rules engine, a state machine, and a content-addressable memory that provides the predetermined priority hierarchy for selecting the program to be the dominant program.

9.   The apparatus of claim 6, further comprising a gatekeeper adapted to select given programs of the plurality of programs to be granted access to the arbiter to seek the master persistence attribute according to the predetermined priority hierarchy.

10.   A graphic display apparatus, comprising:

a gatekeeper adapted to select given programs of a plurality of programs to be granted a key to request a persistence attribute according to a predetermined priority hierarchy, the persistence attribute enabling a selected program of the given programs, upon receipt of the persistence attribute, to display a program data window of the selected program concurrently with program data windows of the other given programs while not being obscured by the program data windows of the other programs and while overlapping at least one program data window of the other given programs.

11.   The graphic display apparatus of claim 10, further comprising:

a graphics device driver, operationally coupled with the gatekeeper, adapted to provide display data for the program data windows of the given programs to a display.

12.   The graphic display apparatus of claim 11, further comprising:

an arbiter adapted to:

(a)   select a program to be a dominant program from the given programs seeking the persistence attribute, and

(b)   assign the persistence attribute to the selected program.

13.   The graphic display apparatus of claim 12, further comprising:

an access control table, operationally coupled with the arbiter, adapted to store indicia representative of the predetermined priority hierarchy.

14.   The graphic display apparatus of claim 10, further comprising:

an I/O manager, operationally coupled with the gatekeeper, adapted to manage communication of graphical data between the given programs and a display.

15.   The graphic display apparatus of claim 10, further comprising:

an application manager, operationally coupled with the gatekeeper, adapted to prevent unauthorized access to an operating system by the given programs.

16.   The graphic display apparatus of claim 15, further comprising:

a graphics device driver, operationally coupled with the application manager, adapted to provide graphical data to display the program data windows of the given programs on the display.

17.   The graphics display apparatus of claim 10, further comprising:

a configuration application program, operationally coupled with the gatekeeper, adapted to configure the gatekeeper with the predetermined priority hierarchy.

18.   The graphic display apparatus of claim 10, further comprising:

a configuration table, operationally coupled with the gatekeeper, adapted to store indicia representative of the predetermined priority hierarchy.

19. The apparatus of claim 18, wherein the indicia include one of a process ID (PID), a window ID (WID), a priority, revoked and repudiated credentials, an authentication token or key, a master persistence attribute authorization, descriptive text, a program status, a system status, an accessible display region, and an excluded display region.

20. A graphic display apparatus comprising:

(a) a gatekeeper adapted to select given programs of a plurality of programs seeking to be granted a master persistence display attribute according to a predetermined priority hierarchy, and

(b) an arbiter adapted to:

(1) select a program to be a dominant program from the given programs; and

(2) assign the master persistence attribute to the selected program according to the predetermined priority hierarchy,

wherein the apparatus displays a program data window of the selected program concurrently with program data windows of other programs of the given programs while not being obscured by the program data windows of the other programs and while overlapping at least one program data window of the other programs.

21. The graphic display apparatus of claim 20, further comprising:

one of (i) a configuration table, operationally coupled with at least one of the arbiter and the gatekeeper, adapted to contain first indicia representative of the predetermined priority hierarchy, and (ii) an access control table, operationally coupled with at least one of the arbiter and the gatekeeper, adapted to contain second indicia representative of the predetermined priority hierarchy.

22. The graphic display apparatus of claim 20, further comprising:

a configuration application, operationally coupled with at least one of the configuration table and the access control table, adapted to configure at least one of the arbiter and the gatekeeper.

23. The graphic display apparatus of claim 20, further comprising:

an I/O manager, operationally coupled with at least one of the arbiter and the gatekeeper, adapted to communicate display data for the program data windows of the selected program and the other programs between at least one application program and a display.

24. The graphic display apparatus of claim 23, further comprising:

a graphics device driver, operationally coupled with the I/O manager and the display, adapted to provide the display data to the display.

25. The graphic display apparatus of claim 24, further comprising:

a display buffer operationally coupled with the graphic device driver.

26. The graphic display apparatus of claim 20, further comprising:

a graphics device driver, operationally coupled with at least one of the arbiter and the gatekeeper, adapted to provide display data to a display.

27. The graphic display apparatus of claim 26, further comprising:

a display buffer operationally coupled with the graphics device driver.

28. The graphic display apparatus of claim 26, further comprising:

an I/O manager, operationally coupled with the graphics device driver, adapted to facilitate communication between an application program and the display.

29. The graphic display apparatus of claim 20 further comprising:

an application manager, operationally coupled with at least one of the gatekeeper and the arbiter, adapted to prevent unauthorized access to an operating system by the given programs.

30. The apparatus of claim 21, wherein at least one of the first indicia and the second indicia include one of a process ID (PID), a window ID (WID), a priority, revoked and

repudiated credentials, an authentication token or key, a master persistence attribute authorization, descriptive text, a program status, a system status, an accessible display region, and an excluded display region.

31. A graphics system comprising:

(a) a video input adapted to receive a graphical data signal;

(b) a video output operationally coupled with a display;

(c) a display controller operationally coupled with the video input and adapted to selectively transmit the graphical data signal to the video output; and

(d) an arbiter operationally coupled with the display controller, the arbiter adapted to effect the selective transmission by granting a persistence attribute, according to a predetermined priority hierarchy, to a window for displaying data on the display, the display controller adapted to selectively transmit responsive to the arbiter,

wherein the video output is further adapted to write data to a set of pixel memory locations, which are later read by the display, and

wherein a window which has been granted the persistence attribute by the arbiter has exclusive access to a portion of the set of pixel memory locations in place of at least one other window which would otherwise have access to the portion of the set of pixel memory locations.

32. The graphics system of claim 31, further comprising a CPU interface adapted to operationally couple the graphics system to a CPU, the CPU adapted to receive display control signals and the arbiter adapted to be responsive thereto.

33. The graphics system of claim 32, wherein the CPU includes a gatekeeper operationally coupled with the arbiter and adapted to transmit the predetermined priority hierarchy thereto.

34. The graphics system of claim 32, wherein the CPU includes a gatekeeper operationally coupled with the arbiter and adapted to select display control signals having access to the arbiter.

35.   The graphics system of claim 34, further comprising an arbiter access control table adapted to receive indicia relevant to the predetermined priority hierarchy.

36.   The graphics system of claim 35, wherein the indicia include one of a process ID (PID), a window ID (WID), a priority, revoked and repudiated credentials, an authentication token or key, a master persistence attribute authorization, descriptive text, a program status, a system status, an accessible display region, and an excluded display region.

37.   A method of assigning a persistence attribute to at least one of a plurality of programs, the method comprising:

(a)   requesting a master persistence attribute from a gatekeeper;

(b)   assigning a set of priority rules to the gatekeeper via a configuration application program;

(c)   granting keys to given programs of the plurality of program with the gatekeeper, the keys adapted to allow the given programs access to an arbiter;

(d)   examining an arbiter access control table with the arbiter, the arbiter access control table being adapted to store a predetermined priority hierarchy; and

(e)   assigning the persistence attribute to a selected program of the given programs, the persistence attribute adapted to grant the selected program access to a dominant display window,

wherein the dominant display window is adapted to display data of the selected program concurrently with display windows of other programs of the given programs while not being obscured by the display windows of the other programs and while overlapping at least one of the display windows of the other programs.

38.   A computer program product recorded on a computer readable medium for assigning a master persistence attribute to a selected program of a plurality of programs, the computer program product comprising:

(a) computer readable program code that, when executed, provides a gatekeeper adapted to grant an access token to the plurality of programs, the access token adapted to allow access to an arbiter according to a predetermined access hierarchy; and

(b) computer readable program code by which the arbiter assigns the master persistence attribute to the selected program, thereby granting access to a dominant display window,

wherein the dominant display window is adapted to display data of the selected program concurrently with display windows of other programs while not being obscured by the display windows of the other programs and while overlapping at least one display window of the other programs.

39. The computer program product of claim 38, further comprising computer readable program code by which the arbiter examines an arbiter access control table adapted to store the predetermined access hierarchy.

40. The computer program product of claim 39, further comprising computer readable program code adapted to assign a set of access rules to the gatekeeper and to assign a set of priority rules to the arbiter using a configuration application program.

41. A method of assigning a master persistence display attribute to a selected application program of a plurality of application programs, the method comprising:

(a) requesting the persistence attribute from a gatekeeper;

(b) accessing, with the gatekeeper, a configuration table adapted to store a predetermined priority hierarchy;

(c) granting, with the gatekeeper, keys to given application programs of the plurality of programs;

(d) applying the keys, with the given application programs, to access an arbiter adapted to examine an arbiter access control table adapted to store the predetermined priority hierarchy; and

(e)   assigning, with the arbiter, the master persistence display attribute to the selected

application program, the master persistence attribute adapted to grant the selected program

access to a dominant display window,

wherein the selected program displays data in the dominant display window concurrently

with display windows of other programs of the given programs while not being obscured by the

display windows of the other programs and while overlapping at least one of the display

windows of the other programs.

42.   An apparatus for producing a perceptible representation of program data

windows, the apparatus comprising an arbiter adapted to select a program to be a dominant

program from among a plurality of programs seeking a master persistence attribute to display a

program data window according to a predetermined priority hierarchy, and to assign the master

persistence attribute to the selected program,

wherein the perceptible representation of program data windows is rendered on one of a

computer, a communication pad, a telephony device, a handheld remote control device, and a

handheld computing device, and

wherein the selected program displays a dominant program data window concurrently

with program data windows of other programs while not being obscured by the program data

window of the other programs and while overlapping at least one program data window of the

other programs.

43.   The apparatus of claim 42 wherein a medium by which data is communicated to

the apparatus comprises one of a wireless/RF channel, a wire-based channel, a cable-based

channel, and a fiberoptic channel.

44.   (Canceled)

Evidence Appendix

No separate evidence is submitted herewith.

Applicant : Michael Dove   Attorney's Docket No.: BU1327/0033-064001
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Related Proceedings Appendix

To the best of Appellants' knowledge, there are no related appeals or interference proceedings currently pending, which would directly affect or be directly affected by or have a bearing on the Board's decision in this appeal